

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:11-CR-48 JCM (CWH)

Plaintiff(s),

ORDER

v.

RUBEN AGUILAR,

Defendant(s).

Presently before the court is petitioner Ruben Aguilar's (hereinafter "petitioner") motion to reduce sentence. (Doc. # 343). The government filed a response. (Doc. # 347). Petitioner has not replied, and the deadline to reply has now passed.

On January 11, 2012, petitioner pled guilty to conspiracy to distribute five or more grams of methamphetamine, in violation of title 21 U.S.C. §§ 841(a) and (b)(1)(B)(ii), and 846. On April 10, 2012, petitioner was sentenced to 108 months in prison. Petitioner now seeks a reduction of his sentence under 18 U.S.C. § 3582(c)(2) and proposed amendment 782 to the United States sentencing guidelines. (Doc. # 343).

Pursuant to title 18 U.S.C. § 3582(c)(2), a district court may reduce a defendant's sentence where it was imposed based on a range that the sentencing commission subsequently reduces. 18 U.S.C. § 3582(c)(2). In those circumstances, the court may modify the term of imprisonment if a reduction is consistent with sentencing commission policy statements and the factors set forth in title 18 U.S.C. §3553(a). *Id.*

On April 30, 2014, the United States sentencing commission submitted to Congress amendment 782 to the sentencing guidelines, which provides for a two-point reduction in

1 sentences for all drug offenses.¹ On July 18, 2014, the commission voted to make these
2 reductions available, under some circumstances, to offenders already sentenced to prison terms.
3 Such changes will be available beginning on November 1, 2014, the effective date of the
4 amendment, unless Congress modifies or disapproves it.²

5 Because amendment 782 is not effective until November 1, 2014, any potential
6 retroactive application to petitioner's sentence is not yet available. As a result, petitioner's
7 motion is premature.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the motion to reduce
10 sentence, (doc. # 343), be, and the same hereby is, DENIED without prejudice.

11 DATED September 11, 2014.

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14 UNITED STATES DISTRICT JUDGE
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25 ¹ See Amendments to the Sentencing Guidelines, United States Sentencing Commission
26 (April 30, 2014), http://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20140430_RF_Amendments.pdf.

27 ² Summary of Key Data Regarding Retroactive Application of the 2014 Drug Guidelines
28 Amendment, United States Sentencing Commission (July 25, 2014),
<http://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/drug-guidelines-amendment/20140725-Drug-Retro-Analysis.pdf>.